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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,868	02/02/2001	Firmin Garcia	VAL1599P0230US	3944
32116 75	590 11/24/2003		EXAM	INER
WOOD, PHILLIPS, KATZ, CLARK & MORTIMER			KAUFMAN, JOSEPH A	
500 W. MADISON STREET SUITE 3800		ART UNIT	PAPER NUMBER	
CHICAGO, IL 60661			3754	
			DATE MAILED: 11/24/2003	3

Please find below and/or attached an Office communication concerning this application or proceeding.

,	Application No.	[Applicant(a)			
	Application No.	Applicant(s)			
Office Antion Commence	09/775,868	GARCIA ET AL.			
Office Action Summary	Examiner	Art Unit			
	Joseph A. Kaufman	3754			
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply					
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be ting within the statutory minimum of thirty (30) day fill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).			
Status 1) Responsive to communication(c) filed on					
1) Responsive to communication(s) filed on					
 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. 					
Disposition of Claims					
4) Claim(s) <u>1-14</u> is/are pending in the application.					
4a) Of the above claim(s) is/are withdrawn from consideration.					
5) Claim(s) is/are allowed.					
6)⊠ Claim(s) <u>1-14</u> is/are rejected.					
7) Claim(s) is/are objected to.					
8) Claim(s) are subject to restriction and/o	r election requirement.				
Application Papers					
9) The specification is objected to by the Examiner.					
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.					
Applicant may not request that any objection to the					
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).					
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.					
Priority under 35 U.S.C. §§ 119 and 120					
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78. a) The translation of the foreign language provisional application has been received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78. 					
Attachment(s)					
 Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 	5) 🔲 Notice of Informal F	r (PTO-413) Paper No(s) Patent Application (PTO-152)			

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Specification

1. The abstract of the disclosure is objected to because of the use of the legal term "said" on line 4. Correction is required. See MPEP § 608.01(b).

2. The disclosure is objected to because of the following informalities: headings, i.e. "Brief Description of the Drawings", should be added to the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 5, "optionally" renders the claim indefinite as it is unclear what the metes and bounds of the claim are. Is the gasket present or not?

In claim 8, line 9, "such as" renders the claim indefinite as it is unclear what type of dispensing members are encompassed. On line 11, the dispensing member is recited for a second time, raising issues of double inclusion. On line 15, "optionally" renders the claim vague and indefinite for the above noted reasons.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

⁽a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 2, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0,806,248 to Guglielminetti in view of Van Brocklin.

Guglielminetti shows a container 3; neck 2; fixing device 1 having a ring; web 13; skirt 10; free ends discussed in column 3, lines 19-27 that deform inwardly in a zone as seen in Figure 4 when axial thrust is applied to the free end; preventer means 30 and trim band 32. Guglielminetti lacks the skirt being formed into tabs. Van Broklin shows a fixing device for a dispensing device having deforming tabs 46. It would have been obvious to make the single skirt of Guglielminetti into tabs as taught by Van Brokllin in order to simplify construction of the device as noted in column 3, lines 33-37 and 41-56.

Allowable Subject Matter

7. Claims 3-5 and 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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8. Claims 8-14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Conclusion

- 9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Arona-Delonghi, de Pous et al., Bougamont et al., and de Rosa show other fixing devices for dispensers.
- Any inquiry concerning this communication or earlier communications from the 10. examiner should be directed to Joseph A. Kaufman whose telephone number is (703) 308-0266. The examiner can normally be reached on Monday-Friday (second Mondays off), 5:30AM-3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (703) 308-2696. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0975.

Primary/Examiner

Art Unit 3754

jak

November 21, 2003